

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington D. C. 20554

In the Matter of Developing a  
Unified Intercarrier Compensation     )     CC Docket No. 01-92  
Regime

**COMMENTS OF CCG CONSULTING, INC.**

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Comments, CC Docket No. 01-92  
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## EXECUTIVE SUMMARY

Facility-based competitive local exchange carriers are bringing the benefits of competition to customers living in rural areas served by the largest nationwide incumbent local exchange carriers. These rural CLECs share cost characteristics with rural incumbent local exchange carriers while bringing high quality services and features, as well as advanced services, to customers who had not been receiving these services before. The purpose of our comments is to provide the Commission with more information about these type companies and the particular challenges that they face, and to highlight concerns the Commission will need to consider in this proceeding.

We support unified rates to be used for both access and reciprocal compensation. However, access rates should not be reduced to zero through implementation of a Bill and Keep mechanism. This type of compensation mechanism is as detrimental to rural competitive local exchange carriers as it is to rural incumbent local exchange carriers.

Any plan that reduces access rates should be phased-in over as long a period as possible, at least for rural carriers, so these companies have time to prepare for and adjust to the economic impact.

If reductions in compensation are recovered through new or increased Universal Service Fund ("USF") support, these new support mechanisms should be available to all designated Eligible Telecommunications Carriers.

In addition, where small competitive providers are extending the benefits of competition to consumers in rural areas served by the largest ILECs, the small

competitive providers should be allowed the option of submitting company specific studies to qualify for USF support based on their own costs.

Pricing for transport and tandem switching functions should be considered separately from other access rates, and should be set at a level to recover costs specific to these functions.

Imposing flat-rated connection charges on Interexchange Carriers (“IXCs”), as proposed by EPG, is problematic with regard to terminating access. Any form of dedicated pricing presumes a minimum amount of facilities, such as DS-1 level, which would impose a “take or pay” obligation on small competitive providers who often do not have sufficient amounts of traffic in any one location to require large capacity facilities.

We oppose suggestions made by various Regional Bell Operating Companies (“RBOCs”) that each carrier only be allowed one Point of Interconnection (“POI”) per LATA and that the POI must be located at their access tandem. This relieves the RBOCs of the cost burden and places it instead on the CLECs.

Transit services are vital to small facilities-based carriers who do not have viable alternatives. RBOCs should be required to offer transit services and alternate tandem providers should be encouraged.

All carriers using tandem services should be given complete records for calls so they know the originating point and carrier of each call.

Collection from IXCs of amounts owed for access is an ongoing problem, especially for small competitive local exchange carriers. IXCs should be required to pay access billings in a timely manner.

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**Comments of CCG Consulting, Inc.**

CCG Consulting, Inc. respectfully submits these comments in response to the Federal Communications Commission's ("Commission") Further Notice of Proposed Rulemaking released March 3, 2005 in the above referenced proceeding.<sup>1</sup> CCG is a full service telecommunications consulting firm that has assisted over 300 clients with competitive telecommunications advocacy, planning and implementation of their operations in all 50 states, with the majority of these clients being small entities.

Many of our clients are competitive local exchange carriers ("CLECs") who are building facilities in rural exchanges, and are providing rural customers with choice, convenience, innovation and technologies previously unavailable to them. These companies are providing services in rural exchanges served by the largest incumbent local exchange carriers ("ILECs") in the nation, but are of a size and have characteristics that make them very similar to rural incumbent local exchange carriers. The purpose of our comments is to provide the Commission with more information about these type companies and the particular challenges that they face, and to highlight concerns the Commission will need to consider in this proceeding. We think it is important for this Commission to understand that rural

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<sup>1</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, 70 Fed. Reg. 15030 (2005) (*FNPRM*)

CLECs have been quietly implementing business plans that meet the intent of the 1997 Telecommunications Act by investing in facilities in rural areas to serve customers. We ask this Commission to give special consideration to rural CLECs in this proceeding so that they can continue to bring advanced services and competition to customers who will otherwise not see competition for decades to come.

I. Description of Rural Facilities-Based CLECs

Rural facility-based CLECs represent the type of competition that this Commission has always promoted.<sup>2</sup> Rural CLECs have made significant capital investments to serve smaller rural communities. Primarily these are communities that have experienced no competition. Rural CLECs typically provide their own switches. Rural CLECs sometimes use UNE loops, but the high prices of rural UNE loops due to the tiered pricing of loops has usually driven them to build their own loop networks, using many technologies including wireless, copper and fiber.

The exchanges served by these rural CLECs customers often do not have access to innovative and advanced services from the incumbent LECs, often have limited local calling scopes, and generally do not receive a quality of service from the incumbent LECs comparable to that available to customers in larger urban areas. Our clients have made significant investments to bring advanced services and competitive prices to rural communities. Our client rural CLECs are generally small, ranging in size from a few hundred up to 10,000 access lines.

CLECs serving rural areas share characteristics with rural ILECs, such as higher costs and operating challenges. However, these companies are not usually

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<sup>2</sup> See FNPRM para 31, "Indeed, one of the Commission's most important policies is to promote facilities-based competition in the marketplace."



competing against those rural ILECs, but are instead competing in rural exchanges served by the largest nationwide ILECs.

The rural CLECs we are representing in these comments are heavily dependent on access revenues. For many of our clients the amount of revenue collected from access exceeds their profit margins. While access is capped for CLECs at the rates charged by the incumbent LEC, these revenues are still an integral part of successfully doing business in rural areas. Local rates alone are generally not high enough to support the total cost of providing service in rural areas. Rates that rural CLECs can charge for services to end-user customers are constrained by market forces. Actions taken by the Commission in this proceeding will directly impact these rural CLECs and their ability to bring high quality telecommunications and advanced services to rural consumers.

No compensation plan that has been proposed in this proceeding reflects the needs of this type of competitive carrier. Due to the size and limited resources of these companies, we are not proposing a specific plan, but instead are providing the Commission with brief comments and a set of principles that we think should apply to any new compensation regime.

## II. Bill and Keep

We do not oppose unified rates to be used for both access and reciprocal compensation. However, access rates should not be reduced to zero through implementation of a Bill and Keep mechanism.

Numerous parties in this proceeding are addressing the fact that a Bill and Keep compensation regime is not an appropriate solution for rural providers or

consumers.<sup>3</sup> This form of compensation is equally inappropriate for small CLECs serving rural areas. These companies incur significant infrastructure costs, some of which are associated with the provision of access. If these revenues are reduced to zero, with companies having to look to end-user consumers for the revenues to recover their costs, then we fear that continued growth in competition will cease and current levels of competition will probably recede in rural areas.

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<sup>3</sup> FNPRM at para. 38 and footnote 107

III. General Principles For Compensation Mechanisms

We believe any final order from this Commission must consider the following issues in respect to rural facility-based competition:

A. Access Charges

1. The Commission seeks comment on the type of transition that would be needed for a new regime.<sup>4</sup> Any plan that reduces access rates should be phased-in over as long a period as possible, at least for rural carriers, so these companies have time to prepare for and adjust to the economic impact. As previously noted, for many of our clients the amount of billing for access exceeds their annual profit margin, and in many cases a short phase-out of access would force them out of business.

2. Parties were requested to address the competitive neutrality of any new proposed universal service mechanisms.<sup>5</sup> If reductions in compensation are recovered through new or increased USF support, these new support mechanisms should be available to all designated Eligible Telecommunications Carriers. As mentioned, CLEC rates are constrained by market forces and/or regulatory requirements. For small competitive companies serving rural areas who are heavily dependent on access revenues, it will be impossible for these companies to make up any lost access revenues through increases in charges to end-user consumers while similarly situated ILECs, whose rates serve to constrain the rates charged by the competitive carriers, might enjoy additional USF support. If rural competition is going to survive, then rural competitors need access to the same revenue streams available to the incumbent providers.

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<sup>4</sup> FNPRM at para. 117

<sup>5</sup> Id at paras. 104 and 110

In addition, where small competitive providers are extending the benefits of competition to consumers in rural areas served by the largest ILECs, the small competitive providers should be allowed the option of submitting company specific studies to qualify for USF support based on their own costs. The larger ILEC's USF support is generally averaged over a study area, often statewide, and does not reflect the high cost of providing service only in rural exchanges. This Commission has repeatedly emphasized its support for rural facility-based competition and we believe that new mechanisms aimed at supporting rural competition are needed if rural access revenues are reduced or eliminated. Our clients have made significant rural investments based upon long-standing revenue sources, including access. It would seem contrary to the goals of this Commission to now reduce rural access charges and thus kill the robust rural competition that our clients bring to the table. Allowing cost based USF support for rural areas served by large ILECs will promote the continued growth of rural competition.

3. In paragraph 132 of the FNPRM the Commission solicits comment on the appropriate pricing methodology for transit services. Pricing for transport and tandem switching functions should be considered separately from other access rates, and should be set at a level to recover costs specific to these functions. Currently, the RBOCs remain the monopoly providers for these types of services, so prices should remain subject to regulation until sufficient competition develops. These services are vital to small facilities-based carriers who do not have viable alternatives, and are limited even today. Without just compensation for these two specific functions there will not be incentive in the future to build additional facilities to meet the demand for these services.

4. The Commission questions whether some sort of flat-rated connection charge on IXC's, as proposed by EPG, would be appropriate.<sup>6</sup> This concept may be workable for originating access, but is problematic with regard to terminating access. Any form of dedicated pricing presumes a minimum amount of facilities, such as DS-1 level, which would impose a "take or pay" obligation on small competitive providers who often do not have sufficient amounts of traffic in any one location to require large capacity facilities. In rural areas neither the CLECs providing service nor the IXC's requiring access have sufficient traffic to justify DS-1 levels of minimum service. Making a DS-1 the minimum access pipe in rural areas will result in driving away most IXC's from serving these areas.

We are generally in favor of calculating access compensation using per minute rates instead of converting to a flat rate approach to pricing. A flat rate compensation structure can discriminate against small IXC's, and create barriers to entry for their expansion into new areas. In turn, it also makes it difficult for smaller competitive providers to collect access compensation from them.

B. Network Issues

1. The Commission has asked parties to comment on the network interconnection proposals.<sup>7</sup> We oppose suggestions made by various RBOCs that each carrier only be allowed one POI per LATA and that the POI must be located at their access tandem. This relieves the RBOCs of the cost burden of connecting with competitors and places it instead on the CLECs. These suggestions are contrary to the Communications Act of 1934 ("Act"), which specifically allows for interconnection at any technically feasible location. We believe this Commission correctly interpreted this issue in the Virginia AT&T arbitration, by reaffirming that competitive LECs

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<sup>6</sup> FNPRM para. 105

<sup>7</sup> FNPRM para. 93

can request interconnection at any technically feasible point.<sup>8</sup> We don't believe that an access docket is an appropriate forum for the RBOCs to again try to win this same old argument.

2. The Commission solicits comments on whether provision of transit service should be required.<sup>9</sup> As previously discussed, these services are vital to small facilities-based carriers who do not have viable alternatives. RBOCs should be required to offer transit services and alternate tandem providers should be encouraged, so RBOCs do not continue to maintain a monopoly over this type of business.

The Commission also asks if an obligation should be imposed on the transiting carrier to provide information necessary to bill.<sup>10</sup> All carriers using tandem services should be given complete records for calls so they know the originating point and carrier of each call. With the extensive changes that will be made to intercarrier compensation, it will be vital that carriers have the ability to identify and bill for all possible revenue sources.

### C. Financial Issues

1. Under any new access scheme, IXCs must be required to pay the access. The biggest collections problem for smaller CLECs currently is in trying to recover

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<sup>8</sup> In the Matter of *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration*, CC Docket No. 00-218; *Petition of Cox Virginia Telcom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Arbitration*, CC Docket No. 00-249; and *Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc.*, CC Docket No. 00-251, Memorandum Opinion and Order, 18 FCC Rcd 17722 (2003).

<sup>9</sup> FNPRM para. 129

<sup>10</sup> FNPRM para. 133

compensation from IXC's. Numerous IXC's are continuously delinquent in payment of access bills, and competitive providers, especially small ones with limited resources, currently have no recourse against them and must absorb their delinquency as part of the cost of doing business. A clear, concise complaint process should be established in order to force compliance, where necessary. Currently, it is easier for many small competitive providers to disconnect non-paying end-user customers temporarily or permanently, for a much lesser collection amount, than it is to get action against the carriers for their blatant disregard of their responsibility.

#### IV. Conclusion

The Commission is faced with the task of balancing the interests of numerous types of providers, consumers and other interested parties. Facility-based CLECs who are bringing the benefits of competition and advanced services to rural areas are one of these parties. We applaud the Commission's intent in this undertaking but urge the Commission to consider policies that will preserve viable revenue sources and promote investment in rural infrastructure that will in turn continue to encourage the emergence of competition in rural areas.

Respectfully Submitted  
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